

## **NOTICE OF PROPOSAL TO ADOPT REGULATIONS**

### **California Code of Regulations Title 15, Crime Prevention and Corrections Division 3, Department of Corrections**

#### **AUTHORITY:**

Under authority established in Penal Code (PC) Section 5058, the Director of Corrections proposes to change Title 15 of the California Code of Regulations (CCR) by amending regulation(s) concerning California Department of Corrections' employees and specifically restricting their participation as an expert witness in any administrative, civil, or criminal action regarding departmental matters.

#### **REFERENCE:**

These regulations implement, interpret, and/or make specific Penal Code Section 5054.

#### **PUBLIC HEARING:**

Date and Time: **January 13, 1999 at 9:00 a.m.**  
Place: Department of Water Resources Auditorium  
1416 Ninth Street  
Sacramento, CA 95814  
Purpose: To receive comments about this action.

#### **PUBLIC COMMENT PERIOD:**

The public comment period will close **January 13, 1999** at 5:00 p.m. Any person may submit written comments about the proposed changes. To be considered by the Department, comments must be received at the Department of Corrections, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001, before the close of the comment period.

#### **CONTACT PERSON:**

Please direct any inquiries regarding this action to Bonnie Garibay, Chief, Regulation and Policy Management Branch, Department of Corrections, PO Box 942883, Sacramento, CA 94283-0001 or telephone (916) 358-2456.

#### **ASSESSMENTS, MANDATES AND FISCAL IMPACT:**

This action will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

The Department determines this action imposes no mandates on local agencies or school districts; no fiscal impact on State or local government, or Federal funding to the State, or private persons. It is also determined that this action will not have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states, because they are not affected by the internal management of State prisons; or on housing costs; and no costs or reimbursements to any local agency or school district within the meaning of Government Code Section 17561. This action will not affect small businesses because they are not affected by the internal management of State prisons.

#### **DETERMINATION:**

The Department must determine that no alternative considered would be more effective in carrying out the purpose of this action or would be as effective and less burdensome to affected persons.

#### **AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS:**

The text of the regulation, the Initial Statement of Reasons and other related material are available upon request directed to the Department's contact person.

### **AVAILABILITY OF CHANGES TO PROPOSED TEXT:**

If any substantial and sufficiently related changes are made to the text as a result of comments received during the public comment period, the Department will make the full text of the changed regulation available for at least 15 days before the date the regulation(s) is permanently adopted.

### **Informative Digest:**

Penal Code Section 5054 vests with the Director the supervision, management and control of the prisons, and the responsibility for the care, custody, treatment, training, discipline and employment of inmates.

Penal Code Section 5058 authorizes the Director to prescribe and amend regulations for administration of prisons.

Section 3413 of Division 3 of Title 15 of the California Code of Regulations places restrictions on activities of employees of the Department. It states that no employee of the Department of Corrections will engage in any other employment or activity inconsistent or incompatible with employment by the Department of Corrections.

This action will amend section 3413 of Division 3 of Title 15 of the California Code of Regulations by placing further restrictions on departmental employees, specifically restricting their participation as an expert witness in any administrative, civil, or criminal action regarding departmental matters. This restriction does not preclude an employee from testifying as a non-expert witness regarding departmental matters pursuant to a validly issued subpoena.